

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, ) Judge Polster  
 ) Cleveland, Ohio  
vs. )  
 )  
LONNY LEE BRISTOW, ) Number 1:13CR148  
 )  
Defendant. )

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TRANSCRIPT OF PROCEEDINGS HAD BEFORE  
THE HONORABLE DAN AARON POLSTER  
JUDGE OF SAID COURT,

ON THURSDAY, APRIL 11, 2013  
- - - - -

APPEARANCES:

For the Government: THOMAS E. GETZ,  
Assistant U.S. Attorney  
801 West Superior Avenue  
Cleveland, OH 44113  
(216) 622-3600

For the Defendant: CAROLYN M. KUCHARSKI, ESQ.,  
Ass't. Federal Public Defender  
750 Skylight Office  
1660 West Second  
Cleveland, OH 44113  
(216) 522-4856

Official Court Reporter: Shirle M. Perkins, RDR, CRR  
U.S. District Court  
801 West Superior, #7-189  
Cleveland, OH 44113-1829  
(216) 357-7106

Proceedings recorded by mechanical stenography; transcript  
produced by computer-aided transcription.

1                   THURSDAY SESSION, APRIL 11, 2013, AT 10:54 A.M.

2                   THE COURT: We're here on Case 1:13 CR148,  
3                   United States versus Lonny Lee Bristow. Mr. Bristow is here  
4                   with Ms. Kucharski. Mr. Getz for the Government.

11:17:04 5                   It's my understanding that we're going to do an  
6                   arraignment, a change of plea -- a plea of guilty and a  
7                   sentencing all today; is that correct?

8                   MS. KUCHARSKI: That's correct, your Honor.

9                   MR. GETZ: That's our understanding, your  
11:17:17 10                  Honor.

11                  THE COURT: All right.

12                  Well, first, Mr. Bristow, you have been charged by way  
13                  of information, which is a charge prepared by the U.S.  
14                  Attorney's Office. You have a right to have this matter  
11:17:35 15                  presented to a Grand Jury, which is a group of 23 citizens,  
16                  and they would hear the Government's evidence and decide  
17                  whether or not there was probable cause that you committed  
18                  this particular crime or crimes. You also can waive  
19                  indictment and have the case proceed by way of information.  
11:17:57 20                  And if you do that, you have exactly the same rights, no  
21                  more and no less. You understand what I'm saying?

22                  THE DEFENDANT: Yes, your Honor, I do.

23                  THE COURT: Have you discussed this with your  
24                  lawyer?

11:18:05 25                  THE DEFENDANT: Yes, your Honor, I have.

1 THE COURT: All right.

2 I have a waiver of indictment form. Is this your  
3 signature on the form?

4 THE DEFENDANT: Yes, your Honor, it is.

11:18:14 5 THE COURT: I take it, Ms. Kucharski, that's  
6 yours?

7 MS. KUCHARSKI: It is, your Honor.

8 THE COURT: All right. Do you have any  
9 questions about this waiver?

11:18:20 10 THE DEFENDANT: No, sir.

11 THE COURT: All right.

12 I'm satisfied it's knowing and voluntary, and I will  
13 date it today, April the 11th, 2013, and sign it. All  
14 right.

11:18:33 15 Have you received a copy of the information,  
16 Mr. Bristow?

17 THE DEFENDANT: Yes, I have.

18 THE COURT: All right.

19 You're charged with a violation of Title 18, Section  
11:18:52 20 844(c).

21 MS. KUCHARSKI: I believe it's (e), your  
22 Honor.

23 THE COURT: Oh, right. Thank you, that was.  
24 844(e). Making a threat to damage and destroy a building by  
11:19:06 25 use of explosives, maliciously conveying false information.

1 The maximum penalty is ten years in prison, a \$250,000 fine  
2 or both, three years of supervised release, and a \$100  
3 special assessment. Do you understand that?

4 THE DEFENDANT: Yes, your Honor.

11:19:23 5 THE COURT: And supervised release is a period  
6 of any prison sentence. The main condition is not  
7 committing any new crime. There might be drug testing or  
8 other conditions. If you were to violate a condition of  
9 supervised release, you could come back to me for a hearing,  
11:19:38 10 be sent back to prison. You understand that?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: All right.

13 You have -- and I guess there are actually six counts  
14 of violating this statute. You have a right to have the  
11:19:50 15 indictment read or you can waive reading. What's your  
16 desire?

17 THE DEFENDANT: I've read it. I waive, your  
18 Honor.

19 THE COURT: Okay.

11:19:57 20 And I take it you are prepared to enter a plea of  
21 guilty pursuant to a written plea agreement; is that  
22 correct?

23 THE DEFENDANT: Yes, pursuant to that plea.

24 THE COURT: All right.

11:20:11 25 You have a very experienced lawyer. I'm quite

1       confident Ms. Kucharski has covered with you everything I'm  
2       about to cover, but the law requires that before I can  
3       accept your plea, I have to have a conversation with you to  
4       establish a few things.

11:20:23 5               First, that you are competent to enter a guilty plea;  
6       second, that you've come to this decision knowingly and  
7       voluntarily. I want to make sure you understand all the  
8       rights you have and the rights you are giving up by pleading  
9       guilty. I want to make sure you have a good understanding  
11:20:38 10       of how your sentence will be determined. I have to make  
11       sure there is a factual basis, and I need to do it on the  
12       record so that any reviewing court can see what I've done.

13               You understand all that?

14                       THE DEFENDANT: Yes, your Honor.

11:20:50 15               THE COURT: And I have to place you under  
16       oath. So if you could raise your right hand, sir.

17               (Defendant sworn.)

18               THE COURT: All right. Mr. Bristow, is your  
19       signature on the back of your plea agreement?

11:21:13 20               THE DEFENDANT: Yes, your Honor, it is.

21               THE COURT: Are these your initials on the  
22       lower right-hand corner of each page?

23               THE DEFENDANT: Yes, your Honor, they are.

24               THE COURT: Ms. Kucharski, I take it those are  
11:21:21 25       yours?

1 MS. KUCHARSKI: Yes, your Honor.

2 THE COURT: And, Mr. Getz, these are yours?

3 MR. GETZ: Yes, your Honor.

4 THE COURT: All right.

11:21:25 5 Mr. Bristow, did you read your plea agreement  
6 carefully before signing and initialling it?

7 THE DEFENDANT: Yes, your Honor, I did.

8 THE COURT: Did you have a chance to discuss  
9 it with Ms. Kucharski and to ask her any questions about it  
11:21:37 10 that you might have had?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Now, we're going to spend some  
13 time going through your plea agreement. But, I want to ask  
14 you at the beginning, do you think you have any agreement,  
11:21:46 15 deal, understanding whatsoever with the Government, other  
16 than what's contained in this written plea agreement?

17 THE DEFENDANT: No.

18 THE COURT: All right. Mr. Bristow, how old  
19 are you, please?

11:21:59 20 THE DEFENDANT: 39.

21 THE COURT: How far did you get in school?

22 THE DEFENDANT: Eleventh grade.

23 THE COURT: You have any difficulty  
24 understanding and reading English.

11:22:07 25 THE DEFENDANT: Not at all.

1 THE COURT: In the last 12 months, have you  
2 been treated for any mental or psychiatric condition?

3 THE DEFENDANT: No, your Honor.

4 THE COURT: Are you today under the influence  
11:22:13 5 of any drugs or alcohol or medication that might affect your  
6 ability to understand what's going on?

7 THE DEFENDANT: No, your Honor.

8 THE COURT: Do either counsel know of any  
9 reason Mr. Bristow is not competent to enter a guilty plea  
11:22:22 10 today?

11 MS. KUCHARSKI: No, your Honor.

12 MR. GETZ: None, your Honor.

13 THE COURT: All right.

14 Mr. Bristow, have you discussed your decision to pled  
11:22:35 15 guilty carefully with your lawyer?

16 THE DEFENDANT: Yes, your Honor, I have.

17 THE COURT: And have you asked her any  
18 questions about it that you might have had?

19 THE DEFENDANT: Oh, yes.

11:22:43 20 THE COURT: All right.

21 Without giving me any details of your discussions with  
22 Ms. Kucharski, have you discussed generally with her what  
23 if -- what the Government's evidence against you would be if  
24 this case were to go to trial?

11:22:55 25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: And what's -- the documents, the  
2 witnesses, whatever the Government would introduce at trial,  
3 you discussed that?

4 THE DEFENDANT: Yes, your Honor.

11:23:06 5 THE COURT: And again, without giving me any  
6 details, have you discussed with Ms. Kucharski what, if any,  
7 challenges or defenses you might have to the Government's  
8 evidence, again, if this were to go to trial?

9 THE DEFENDANT: Yes, your Honor.

11:23:17 10 THE COURT: Are you satisfied with your  
11 lawyer's representation of you?

12 THE DEFENDANT: Very satisfied.

13 THE COURT: All right.

14 Mr. Bristow, has anyone threatened you or pressured  
11:23:25 15 you in any way to get you to come here today and plead  
16 guilty?

17 THE DEFENDANT: Not at all.

18 THE COURT: Put another way, are you here  
19 voluntarily because after discussing this with your lawyer  
11:23:33 20 and maybe some family members, you decided this is the best  
21 thing to do under the circumstance?

22 THE DEFENDANT: Absolutely, your Honor.

23 THE COURT: All right.

24 You're proposing to plead guilty to Counts 1 through 6  
11:23:44 25 of this violation of making threats to damage and destroy



1 buildings by explosives and maliciously conveying false  
2 information?

3 I just read the maximum penalties to you. Have you  
4 discussed with Ms. Kucharski the advisory Federal Sentencing  
11:24:09 5 Guidelines and how they're likely to work in your case, and  
6 have you discussed that with her?

7 It's set out in your plea agreement. I just  
8 want to make sure you understand all this.

9 THE DEFENDANT: Yes, but I agreed to plead to  
11:24:29 10 a specific --

11 THE COURT: Well, that's -- that's right, but  
12 it's -- the two are connected. I just want to make sure you  
13 understand that we have advisory Federal Sentencing  
14 Guidelines, and I'm required to consider that as part of  
11:24:48 15 your sentence. And there is a binding plea agreement with a  
16 specific sentence I'll either need to accept or reject, but  
17 part of my decision making is looking at the advisory range  
18 because I would have to consider that as part of my  
19 sentence, and this is really set out in your plea agreement.

11:25:11 20 You would start at an Offense Level 19. You would be  
21 eligible for a two-level adjustment for acceptance of  
22 responsibility, along with a third level for timely guilty  
23 plea if the Government makes that motion, and I assume that  
24 it would. And you are -- the parties believe you're in a  
11:25:33 25 Criminal History Category 6. And so a Level 16, Criminal

1 History Category 6 would be 46 to 57 months.

2 It happens, and not coincidentally, the agreed-upon  
3 sentence is 51 months, which is right in the middle of 46  
4 and 57. And I assume that's how the parties got there. I  
11:25:55 5 just want to make sure you understand that.

6 THE DEFENDANT: Yes, I understand that this  
7 agreed-on sentence was from the Guidelines.

8 THE COURT: It didn't just come out of the --

9 THE DEFENDANT: Right.

11:26:06 10 THE COURT: It's 51 months. And that if  
11 you -- if you just entered a guilty plea, without an  
12 agreed-upon sentence, I would look at the Advisory Guideline  
13 range, and I would consider it as part of my sentence. And  
14 obviously, I could listen to arguments by both sides if the,  
11:26:27 15 you know, Guideline range were either too high or too low,  
16 but it would be my starting point. You understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: So the 51 months didn't just come  
19 out of the air. You understand that?

11:26:38 20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Okay.

22 And I can tell you that I reviewed this, and I don't  
23 see any reason not to accept the plea agreement and the  
24 binding sentence agreement of 51 months. I mean first I  
11:26:59 25 know Mr. Getz, I know Ms. Kucharski, they wouldn't agree on

1 something that wasn't appropriate. It is in the mid point  
2 of the advisory range, which in and of itself isn't  
3 conclusive but it certainly suggests that it is a reasonable  
4 sentence. And I've reviewed the conduct. So what I'm  
11:27:19 5 telling you is if -- if I do accept your guilty plea, I'm  
6 prepared to sentence you today to 51 months custody of the  
7 Attorney General. You understand that?

8 THE DEFENDANT: Yes, your Honor, I do.

9 THE COURT: And the way this works, if you get  
11:27:31 10 51 months, that's what you have to serve. Obviously, you  
11 get credit for any time served on this case, but there is no  
12 parole. The only reduction in your sentence would be up to  
13 54 days, I believe, a year that you could earn good time in  
14 prison, but other than that, you have to serve the whole  
11:27:48 15 sentence. You understand that?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Now, ordinarily, Mr. Bristow, even  
18 with a guilty plea, you would have the right to appeal your  
19 conviction and/or sentence, and you would have the right to  
11:28:05 20 file what we call post-conviction motions if you felt that  
21 your constitutional rights had been violated in any way.

22 Do you understand that?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: What you're doing in Paragraph 16  
11:28:15 25 of your plea agreement is waiving or giving up your right to

1 appeal the conviction and/or the sentence, and the following  
2 limited circumstances: Any punishment in excess of the  
3 statutory maximum, which is ten years in prison or any  
4 sentence above the 51 months, but I'm telling you that I'm  
11:28:40 5 going to sentence you to 51 months. So if I do that, you're  
6 giving up your right to appeal. You understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: And further, you're giving up your  
9 right to file any of these post-conviction constitutional  
11:28:53 10 challenges unless you feel there's been ineffective  
11 assistance of counsel or prosecutorial misconduct in your  
12 case. You understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE WITNESS: I do.

11:29:02 15 THE COURT: All right.

16 You understand, Mr. Bristow? And I also order you to  
17 make full restitution for your conduct in this case. You  
18 understand that? I'm not sure what the parties agreed on,  
19 what the restitution would be, if any.

11:29:27 20 MR. GETZ: I don't believe there will be any.

21 THE COURT: All right.

22 MR. GETZ: The nature of the activity was  
23 such, I don't think there was any.

24 THE COURT: All right.

11:29:34 25 The provision is in here. So I wanted to make sure.

1 All right.

2 So there won't be restitution. All right. You  
3 understand, Mr. Bristow, that as you appear before me today,  
4 you are presumed not guilty of these crimes? You understand  
5 that?

11:29:49

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: And you're entitled to a trial.

8 You don't have to plead guilty. In fact, if you said,

9 "Judge, I want to plead not guilty and I want a trial," I

11:29:57

10 I would set a trial within the Speedy Trial Act, and at that  
11 trial, you would be entitled to a lawyer at every single  
12 stage. And if you could not afford one, I would give you a  
13 lawyer at Government expense.

14 Do you understand that?

11:30:09

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: And your lawyer, Ms. Kucharski,  
17 first of all, you wouldn't have to prove your innocence.

18 Mr. Getz would have to produce in open court to the sworn

19 testimony of witnesses and through admissible documents and

11:30:22

20 physical evidence proof meeting the very high standard of  
21 beyond a reasonable doubt that you were, in fact, guilty of  
22 these crimes.

23 You understand that?

24 THE DEFENDANT: Yes, your Honor.

11:30:30

25 THE COURT: And Ms. Kucharski would be able to

1 challenge, to confront, to cross-examine all the  
2 Government's evidence against you at the trial. You  
3 understand that?

4 THE DEFENDANT: Yes, your Honor.

11:30:39 5 THE COURT: And at the end of the Government's  
6 case, you would have the right, but again, not the burden or  
7 obligation, the right to put on a defense. And that means  
8 that you could call witnesses and introduce documents and  
9 physical evidence tending to show that you were not guilty  
11:30:52 10 of these crimes.

11 Do you understand that?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: And if there was someone whom you  
14 wanted to call as a witness, Mr. Bristow, and that person  
11:30:59 15 didn't want to come to court voluntarily, I would direct one  
16 of our Deputy Marshals to go out and find that person and  
17 bring him or her into court so you could have your defense.

18 You understand that?

19 THE DEFENDANT: Yes, your Honor.

11:31:09 20 THE COURT: Now, at your trial, you would have  
21 the absolute right, either to testify or not to testify, and  
22 it would be strictly your own decision to make. You  
23 understand that?

24 THE DEFENDANT: Yes, your Honor.

11:31:22 25 THE COURT: And if you chose to testify, you

1 would get on the witness stand to my right, I'd give you an  
2 oath like I gave you a few minutes ago, and you would first  
3 answer Mr. Kucharski's questions and then Mr. Getz's  
4 questions. You understand that?

11:31:33 5 THE DEFENDANT: Yes.

6 THE COURT: And if you chose not to testify,  
7 nobody could say a single word about the fact that you chose  
8 not to testify at your trial. You understand that?

9 THE WITNESS: Yes, your Honor.

11:31:42 10 THE COURT: If I accept your guilty plea  
11 today, we won't have any of that, no trial, documents,  
12 cross-examination. You'll be found guilty, come back -- in  
13 fact, ordinarily you would come back in about three months,  
14 but if you tell me you're ready to be sentenced, I will, in  
11:31:55 15 fact, sentence you today. You understand that?

16 THE DEFENDANT: Yes, your Honor, I do, and I'm  
17 ready to be sentenced.

18 THE COURT: And you won't be able to come back  
19 in two or three months to say, "Gee, I made a big mistake."  
11:32:05 20 You understand that?

21 THE DEFENDANT: Correct.

22 THE COURT: Okay.

23 Before I get to the factual basis from Mr. Bristow,  
24 Ms. Kucharski Mr. Getz, is there anything that either of you  
11:32:20 25 feel I've neglected to cover which I need to cover?

1 MS. KUCHARSKI: No, your Honor.

2 MR. GETZ: No, your Honor, other than I would  
3 just make reference to Paragraph 9 of the agreement that  
4 deals with agreement not to bring other charges.

11:32:38 5 THE COURT: All right. Good point. Thank  
6 you, Mr. Getz.

7 In Paragraph 9, Mr. Bristow, the Government has agreed  
8 not to bring any other criminal charges against you relating  
9 to conduct charged in the information and described in the  
11:32:54 10 factual basis, based on facts currently within the knowledge  
11 of the U.S. Attorney's Office.

12 MS. KUCHARSKI: And, your Honor, that is the  
13 agreement, the only thing -- if we could approach briefly.

14 THE COURT: All right.

11:33:18 15 (The following proceedings were held at side bar:)

16 MS. KUCHARSKI: I don't know who's sitting in  
17 the back of the courtroom, but he gave a proffer and he  
18 disclosed some other criminal matters.

19 THE COURT: I'm not going to be discussing  
11:33:29 20 that now.

21 MS. KUCHARSKI: But, he was involved, and he  
22 just wanted to make sure anything he disclosed during the  
23 proffer, you weren't going to --

24 THE COURT: Right.

11:33:39 25 MR. GETZ: That's covered by that paragraph.



1 THE COURT: That's covered by the paragraph.

2 MS. KUCHARSKI: All right.

3 THE COURT: Anything that Mr. Getz, during the  
4 investigation, anything that related to these charges.

11:33:51 5 MS. KUCHARSKI: Okay. He just wanted that  
6 clarified.

7 THE COURT: All right.

8 (Proceedings resumed within the hearing of the jury:)

9 THE COURT: All right.

11:34:00 10 So, Mr. Bristow, what that Paragraph 9 means is that  
11 Mr. Getz and his office have agreed not to bring any other  
12 charges against you relating to the conduct charged in this  
13 information based on anything he's learned from his  
14 investigation which would include anything that you might  
11:34:20 15 have told him.

16 So you understand that? What he's agreed is these are  
17 the charges that are going to be against you.

18 THE DEFENDANT: I do, but it's supposed to be  
19 no charges at all regarding anything he knows thus far,  
11:34:35 20 period. Not just about related to this information.

21 THE COURT: Well, I don't -- Mr. Getz, you  
22 want to elaborate on that? I don't know what Mr. Bristow is  
23 referring to.

24 MR. GETZ: Your Honor, the only thing I could  
11:34:57 25 state is I'm not aware of any information that we received

1 from the investigation, including from the Defendant, that  
2 doesn't relate to the charges in the information. I think  
3 what he might be referring to is activity kind of  
4 surrounding the specific activity that's charged in the  
11:35:19 5 information.

6 THE COURT: All right.

7 Well, Mr. Getz is taking a broad interpretation, Mr.  
8 Bristow. And so what he's saying is he's not -- I'm not  
9 asking what, if anything, you told him, but what he's saying  
11:35:31 10 is if you fold him anything, he's not going to file any  
11 additional charges based on it.

12 THE DEFENDANT: That's fair, your Honor.  
13 Thank you.

14 THE COURT: Okay? All right. Fine. All  
11:35:45 15 right.

16 Lastly, Mr. Bristow I want you to look at the factual  
17 basis portion of your plea agreement. This begins at the  
18 bottom of Page 6, Paragraph 18. We've got sub paragraphs  
19 (a) through (f) on the top of -- well, all of 7 and the top  
11:36:07 20 of Page 8 and Paragraph 19. Have you read this factual  
21 basis portion carefully?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: And is everything in this factual  
24 basis portion true and accurate?

11:36:18 25 THE DEFENDANT: Can I just take one second to

1 review it?

2 THE COURT: Why don't you review it. And if  
3 you think there's something wrong in there, let me know.

4 THE DEFENDANT: As I discussed with Mr. Getz  
11:36:37 5 right before -- I did the conduct. I did what I'm accused  
6 of. It's just how it's alleged that I did it that's just  
7 slightly off. It says that I used my Magic Jack device to  
8 make these calls to these courthouses, and I did not.  
9 Although I did make the calls to the courthouses, I did not  
11:36:56 10 use the Magic Jack or other devices. I used a telephone and  
11 a calling card but not my Magic Jack because saying that I  
12 used my Magic Jack would assume that I did the calls from  
13 Mansfield, Ohio, when I did not.

14 So I mean that's -- that's really my only hang up, is  
11:37:14 15 that I used the Magic Jack for these calls.

16 THE COURT: All right.

17 Mr. Getz, is that -- does that affect an element of  
18 the crime?

19 MR. GETZ: It does not, your Honor.

11:37:22 20 THE COURT: I wouldn't think so.

21 MR. GETZ: Jurisdiction. And I would state  
22 from our position, I think from the Defendant's information  
23 he provided to us, the Magic Jack device was used for at  
24 least purposes of testing out the capability of making some  
11:37:39 25 of these calls in that manner.

1 THE COURT: All right.

2 MR. GETZ: So we -- we feel it's kind of  
3 included in that language, but to the extent that that  
4 correction is made, we don't feel it affects any of the  
5 elements of the offense.

11:37:55

6 THE COURT: I don't think so either. So  
7 we'll -- that should be noted. I don't know if you want to  
8 amend the plea agreement or just make sure in the version  
9 that's in the presentence report, you make that correction.

11:38:12

10 MS. KUCHARSKI: Well, there won't be a  
11 presentence report.

12 THE COURT: Well, that's true.

13 MS. KUCHARSKI: But, for purposes of the  
14 record, it will be on the transcript.

11:38:18

15 THE COURT: Okay. Fine. All right.

16 Well, then, with that correction, Mr. Bristow, is that  
17 what you did in this case?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: All right.

11:38:30

20 Mr. Bristow, I'm satisfied based upon my conversation  
21 with you today that you are competent to enter a guilty  
22 plea, that you've come to this decision knowingly and  
23 voluntarily, that you understand the rights you have and the  
24 rights you are giving up by pleading guilty. That you have  
11:38:46 25 a good understanding of how your sentence will be

1 determined, and there is a factual basis.

2 You have admitted conduct which tells me you're  
3 guilty. So what I'm telling you, sir, is if you tell me  
4 you're guilty, I will find you guilty of these six counts of  
11:39:00 5 18 U.S.C. 844(c). You understand that, sir? Sorry, 844(e).

6 MR. GETZ: (e).

7 THE COURT: Do you understand that, sir?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: All right.

11:39:15 10 Based on everything I've said and what Ms. Kucharski  
11 has said and what Mr. Getz has said, how do you plead to  
12 this information?

13 THE DEFENDANT: Guilty.

14 THE COURT: I accept that plea, and I find you  
11:39:23 15 guilty.

16 Now ordinarily, Mr. Bristow, you would be entitled to  
17 the preparation of a presentence report. The officer would  
18 interview you, get your version of the facts, carefully  
19 research your employment, family, financial, educational  
11:39:39 20 background, of course, your prior criminal record, talk to  
21 the Government, get its version, and the officer would  
22 prepare a draft of the report. You could go over it  
23 carefully. If you thought there were any errors, make those  
24 known, and then a final version would be prepared. And  
11:39:53 25 that's what I would use at sentencing. And if there were

1 any unresolved objections, I would decide those at  
2 sentencing.

3 So you understand you have the right to have your  
4 sentence delayed until the preparation of a report?

11:40:05 5 THE DEFENDANT: Yes, your Honor, but I did  
6 request the PSR be waived.

7 THE COURT: All right.

8 Well, I just want to make sure you understand that  
9 I've -- because I -- this all happened out of my presence.  
11:40:16 10 I need to make a record. So you've discussed this with your  
11 lawyer?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: And you are prepared to waive the  
14 presentence report?

11:40:22 15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: And you understand I've told you  
17 if you do that and you ask me to sentence you now without a  
18 report, I'll do that. And I do plan to give you a sentence  
19 of 51 months. You understand that?

11:40:33 20 THE DEFENDANT: Yes, your Honor, I do.

21 THE COURT: All right.

22 Well, I guess, Mr. Getz, Ms. Kucharski, since I'm  
23 making a record, I have to make sure I allow the two of you  
24 and Mr. Bristow to say anything you wish at sentencing. So  
11:40:47 25 that's what I'm doing now, if there is anything either of

1 you wish to say or add.

2 MS. KUCHARSKI: Nothing I wish to add, your  
3 Honor. We just ask the Court to adopt the joint  
4 recommendation for sentence at 51 months.

11:41:00 5 MR. GETZ: And the Government shares that  
6 suggestion.

7 THE COURT: All right.

8 And, Mr. Bristow, is there anything you'd like to say,  
9 sir? You have the right and I must ask you if you want to  
11:41:09 10 say anything. You don't have to, but I do have to ask you.  
11 So that's what I'm doing.

12 THE DEFENDANT: No, your Honor.

13 THE COURT: Okay. All right.

14 Well, I have reviewed the plea agreement, I did look  
11:41:20 15 at the advisory range for guidance. I'm satisfied that this  
16 was -- that this is a fair and appropriate sentence, and  
17 it's sufficient but not greater than necessary to meet the  
18 statutory purposes of sentencing which are punishment,  
19 deterrence, protecting the community, and rehabilitation.  
11:41:40 20 And based on that, I find that it is fair and appropriate  
21 and meets the parameters of the statute. So I will impose a  
22 sentence of 51 months custody of the Attorney General.

23 Now, I guess, Mr. Getz, you know how long -- or, Ms.  
24 Kucharski -- when Mr. Bristow was taken into custody?

11:42:07 25 MR. GETZ: He was taken into custody late

1 March 19th. So including today -- oh, March 20th. So  
2 including today, by my calculation, that would be 22 days.

3 THE COURT: All right.

4 Well, I will -- you will you get credit for time  
11:42:21 5 served since March the 20th of 2013.

6 MS. KUCHARSKI: And, your Honor, the only  
7 additional matters, Mr. Bristow is asking to be placed, if  
8 at all possible, a recommendation from the Court to go to  
9 Elkton or the closest federal correctional institution to  
11:42:39 10 his family.

11 And there was some property that was seized by the FBI  
12 pursuant to this search warrant, and he is asking the Court  
13 to order the return of that property expeditiously as soon  
14 as it's been analyzed.

11:42:57 15 THE COURT: All right.

16 First I will recommend FCI Elkton or the closest  
17 facility to your family. That is only a recommendation, but  
18 I will make it. Mr. Getz, do you know anything about this  
19 property?

11:43:09 20 MR. GETZ: Yes, your Honor. We have discussed  
21 this with Mr. Bristow's counsel prior to the hearing. And  
22 we are in the process of finalizing the analysis of the  
23 electronic evidence so that it can be returned very quickly.

24 There's some additional physical evidence where the  
11:43:30 25 analysis will be undertaken after we get an additional DNA



1 swab from the Defendant, and we're in the process of trying  
2 to expedite return of property. So it shouldn't be an  
3 issue.

4 THE COURT: All right.

11:43:42 5 Mr. Getz has represented that he will promptly return  
6 the property to you once the forensic analysis is done.  
7 Okay.

8 Are there any objections, any objections that either  
9 counsel wish to place on the record as to the sentence?

11:44:04 10 MS. KUCHARSKI: No, your Honor.

11 MR. GETZ: No, your Honor.

12 THE COURT: I assume not. If I don't ask, I  
13 could get reversed, even though it's an agreed-upon  
14 sentence.

11:44:11 15 And is there anything else that either counsel wish to  
16 place on the record?

17 MS. KUCHARSKI: No, your Honor.

18 MR. GETZ: No, your Honor. Thank you.

19 THE COURT: Okay. Thank you. Then we are  
11:44:20 20 adjourned. And I'll just indicate that I'm signing the plea  
21 agreement.

22 (Proceedings adjourned at 11:44 a.m.)

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

s/Shirle Perkins  
Shirle M. Perkins, RDR, CRR  
U.S. District Court - Room 7-189  
801 West Superior Avenue  
Cleveland, Ohio 44113  
(216) 357-7106